



COMPHIBGRUTHREEINST 5814.1B

N00J

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COMPHIBGRU THREE INSTRUCTION 5814.1B

Subj: SUMMARY COURTS-MARTIAL RECORDS OF TRIAL

Ref: (a) MCM, 2005, RCM 1306
(b) JAGMAN
(c) MCM, 2005, RCM 1305

Encl: (1) Summary of Proceedings - Guilty Plea
(2) Summary of Proceedings - Not Guilty Plea

1. Purpose. To ensure submission of complete and properly prepared records of summary courts-martial for Judge Advocate review.

2. Cancellation. COMPHIBGRUTHREEINST 5814.1A.

3. Background. Reference (a) requires review by a Judge Advocate of records of summary courts-martial in which there have been guilty findings approved by the convening authority. Paragraph 0153a of reference (b) directs that records be forwarded for review to the Staff Judge Advocate of the officer exercising general court-martial jurisdiction. Reference (c) prescribes the minimum contents for summary court-martial records of trial and authorizes prescription of additional requirements by the convening or higher authority.

4. Action. In accordance with appendix A-1-P of reference (b), records of summary courts-martial shall be submitted to COMPHIBGRU THREE and shall contain the following:

a. Original charge sheet and summary court-martial convening order.

b. Record of Trial by Summary Court-Martial (DD 2329), a sample of which is found in Appendix 15, MCM, 2005. The convening authority's action shall include approval or disapproval of findings; order of execution or suspension of sentence; and designation of the place of confinement and limits of restriction, when applicable. The convening authority's action must identify COMPHIBGRU THREE as the cognizant authority to conduct review under article 64(a), UCMJ.

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c. Summary of proceedings. The summary shall include the following:

(1) In cases of guilty pleas, the providence inquiry, i.e., facts constituting the accused's affirmation of each element of the offense. See enclosure (1).

(2) In cases of not guilty pleas, a brief summary of the testimony of each witness on the merits of the case. The record shall state what documents were admitted into evidence. Copies of all documents offered shall be attached to the record of trial. See enclosure (2).

(3) In cases of guilty findings, a brief summary of testimony in aggravation and extenuation and mitigation. Copies of all documents offered in aggravation and extenuation and mitigation shall be attached to the record.

d. Clemency requests or other post trial matters submitted by the accused, if any.


R. L. FORD
Chief of Staff

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SUMMARY OF PROCEEDINGS - GUILTY PLEAS

Summary Court-Martial case of Fireman Recruit John Doe, U.S. Navy, 000-00-000.

PROVIDENCY FOR GUILTY PLEAS

Charge I:

The Summary Court Officer inquired as to the identity and military status of the accused as of the date of his departure from the military. The court also verified that such departure was without proper authority and that the accused was indeed an unauthorized absentee from 1245, 24 May 1998 until 1200, 10 December 1998 when he surrendered to military authorities on board Navy-Marine Reserve Center, St. Louis, Missouri.

Charge II:

The Summary Court Officer determined that the accused was on active duty on 24 May 1998, was assigned to Transient Personnel Unit, Naval Station, San Diego, California, and was duly restricted by Commander Johnson, Commanding Officer, Transient Personnel Unit, Naval Station, San Diego, California, to the limits of the Naval Station. The Summary Court Officer further determined that the accused knew of his restriction and the limits thereof, and that on 24 May 1998, he went beyond the limits of the restriction without authority.

AGGRAVATION

The Summary Court Officer introduced Prosecution Exhibit 1, a page 7 court memorandum, into evidence.

EXTENUATION AND MITIGATION

The accused made a sworn statement as follows:

The day I went UA my father was very sick. My father was in the hospital with chest problems. He had a heart attack six or seven days after I got there. He stayed in the hospital for three weeks. Two of those weeks were in intensive care.

I have other brothers but they weren't home. They were at school. I took all the responsibilities. I returned from UA when my brother came home from school.

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The accused's Leading Chief Petty Officer, BTC Jones made a sworn statement as follows:

FR Jones has worked for me since reporting aboard six months ago. His performance has been good. I didn't have any trouble with him at all until his father got sick. He went UA in April and went to mast when he returned. He was serving his restriction when he went UA this time. He needs to learn to use his chain of command instead of going UA to solve his problems.

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SUMMARY OF PROCEEDINGS - NOT GUILTY PLEAS

Summary Court-Martial case of Fireman Apprentice John Doe,
U.S. Navy, 000-00 0000.

MERITS

The Summary Court-Martial Officer received Prosecution Exhibit 1 into evidence.

Witness for the government, MA1 Jane M. Jones, USN, was sworn and testified as follows:

I am a military working dog handler. I remember doing a drug dog gate inspection on the morning of 19 April 1998, but I don't specifically remember Fireman Apprentice Doe. My dog "Charlie" will sit when he responds to a person in possession of drugs. I mainly look for the change of behavior in the dog. I've worked with my dog for two and a half years and I am very familiar with his responses. I received my dog handling training at Lackland Air Force Base.

Witness for the government, Petty Officer Smith, USN, was sworn and testified as follows:

Fireman Apprentice Doe was alerted on by the dog on 19 April 1998. I was the Duty Master at Arms when Doe was brought to the office to give a urine sample. He was asked if he would consent to give a sample and did not consent. After he refused to provide a sample, I informed the Command Duty Officer (CDO) that Fireman Apprentice Doe had been alerted upon in a military working dog gate inspection and had refused to give a consent urine sample. The CDO then issued an order for Fireman Apprentice Doe to provide a command directed urine sample. When I returned, I notified Fireman Apprentice Doe that the CDO had ordered him to provide a command directed urine sample. Fireman Apprentice Doe again refused and stated that he did not have the time and had to go to work. I told Fireman Apprentice Doe that the order of the CDO was a lawful order and by refusing to obey a lawful order he could go to NJP.

Witness for the accused, Fireman Witness, USN, was sworn and testified as follows:

On the morning of 19 April 1998, Fireman Apprentice Doe and I went to chow. We took the bus to get back to the Naval Station. At the gate, everybody on the bus was ordered to get off so the

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dogs could go through the bus and inspect it. The first dog went by us and the second dog came by and sat on Fireman Apprentice Doe's foot. Fireman Apprentice Doe was then searched. I was not present when Fireman Apprentice Doe was ordered to provide a urine sample.

Fireman Apprentice John Doe was sworn and testified as follows:

I was searched and nothing was found on me. I refused to provide a urine sample. A phone call was then made to the CDO. The CDO gave me a direct order to provide a sample. I still refused to give a sample and was written up for disobeying a direct order. I did give a sample on 28 May 1998 that came up negative. I did not submit to a urinalysis on the morning of 19 April 1998 because I was getting fed up with giving samples. I had given two samples the prior month which both came up negative.

AGGRAVATION

The Summary Court-Martial Officer received Prosecution Exhibit 2 into evidence.

EXTENUATION AND MITIGATION

The accused made a sworn statement as follows:

The reason I believe the dog might have alerted on me that morning is that I was wearing a dirty pair of dungarees with cigarette smell. I had just gotten back from breakfast and the dog could have been hungry. Another reason why I didn't submit to a urinalysis is because I felt threatened by the consent statement on the form. I have never used drugs in my life except for doctor prescribed drugs.